

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Arie Robert Redeker,

Petitioner,

vs.

D.W. Neven, *et al.*,

Respondents.

2:12-cv-00397-KJD-GWF

ORDER

Arie Robert Redeker, a prisoner at High Desert State Prison, has submitted a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, along with motions for leave to file longer petition (ECF No. 2), for appointment of counsel (ECF No. 3) and for an evidentiary hearing (ECF No. 4). Petitioner has paid the filing fee for this action. (ECF No. 6). The motion for leave to file a longer petition shall be granted and the petition shall now be filed and served on respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the Court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

1 There is no constitutional right to appointed counsel for a federal habeas corpus
2 proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428
3 (9th Cir. 1993). The decision to appoint counsel is generally discretionary. *Chaney v. Lewis*, 801
4 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d
5 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). However, counsel must be appointed if the
6 complexities of the case are such that denial of counsel would amount to a denial of due process, and
7 where the petitioner is a person of such limited education as to be incapable of fairly presenting his
8 claims. See *Chaney*, 801 F.2d at 1196; *see also Hawkins v. Bennett*, 423 F.2d 948 (8th Cir. 1970).
9 Petitioner presents a lengthy, but clearly pled petition. His work does not indicate a lack of
10 education of any incapacity. The motion for counsel shall be denied.

11 The motion for evidentiary hearing shall also be denied at this time. Once the matter
12 has proceeded further, the Court will determine if such a hearing is required under 28 U.S.C. §
13 2554(e)(2).

14 **IT IS THEREFORE ORDERED** that the Motion for Permission to File Petition in
15 Excess of Page Limits (ECF No. 2) is **GRANTED**. Clerk shall **FILE and ELECTRONICALLY**
16 **SERVE** the petition (ECF No. 1-1, 1-2) upon the respondents.

17 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45)** days from
18 entry of this order within which to answer, or otherwise respond to, the petition. In their answer or
19 other response, respondents shall address any claims presented by petitioner in his petition as well as
20 any claims presented by petitioner in any Statement of Additional Claims. Respondents shall raise
21 all potential affirmative defenses in the initial responsive pleading, including lack of exhaustion and
22 procedural default. **Successive motions to dismiss will not be entertained**. If an answer is filed,
23 respondents shall comply with the requirements of Rule 5 of the Rules Governing Proceedings in the
24 United States District Courts under 28 U.S.C. §2254. If an answer is filed, petitioner shall have
25 **forty-five (45) days** from the date of service of the answer to file a reply.

1 **IT IS FURTHER ORDERED** that, henceforth, petitioner shall serve upon the
2 Attorney General of the State of Nevada a copy of every pleading, motion, or other document he
3 submits for consideration by the Court. Petitioner shall include with the original paper submitted for
4 filing a certificate stating the date that a true and correct copy of the document was mailed to the
5 Attorney General. The Court may disregard any paper that does not include a certificate of service.
6 After respondents appear in this action, petitioner shall make such service upon the particular Deputy
7 Attorney General assigned to the case.

8 **IT FURTHER IS ORDERED** that any state court record exhibits filed by
9 respondents herein shall be filed with a separate index of exhibits identifying the exhibits by number
10 or letter. The CM/ECF attachments that are filed shall further be identified by the number or
11 numbers (or letter or letters) of the exhibits in the attachment. The hard copy of any additional state
12 court record exhibits shall be forwarded – for this case – to the staff attorneys in Reno.

13 **IT FURTHER IS ORDERED** the Motion for Appointment of Counsel (ECF No. 3)
14 is **DENIED**.

15 **IT IS FURTHER ORDERED** that the Motion for Evidentiary Hearing (ECF No. 4)
16 is **DENIED WITHOUT PREJUDICE**.

17 DATED: March 21, 2012

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UNITED STATES DISTRICT JUDGE